

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 04 June 2003

Case Nos.: 2003-LHC-474/475/476
477/478/479/480/481
482/483

OWCP Nos.: 1-156244/1-156243
1-153140/1-136282
1-144262/1-157226
1-157227/1-157228
1-157229/1-157230

In the Matter of

MICHAEL A. CARVER,

Claimant,

v.

BATH IRON WORKS CORPORATION,

Employer,

and

DIRECTOR, OFFICE OF WORKERS'
COMPENSATION PROGRAMS,

Respondent.

DECISION AND ORDER APPROVING SETTLEMENT

Counsel for the Employer, by letter dated February 25, 2003, submitted an Application for Approval of Settlement; Stipulation of Facts; Settlement Agreement for the settlement of these cases. The application is signed by the Claimant, as well as counsel for the Claimant, Janmarie Toker, and counsel for the Employer, Stephen Hessert.

On April 17, 2003, a phone conference was conducted by the undersigned with Counsel for the Claimant, Janmarie Toker, and Counsel for the Employer, Stephen Hessert. During this conference, I expressed my hesitancy in approving the Application for Settlement in light of a subsection which discussed an injury occurring on December 19, 2000, that is not covered by Longshore jurisdiction. As a result of this discussion, both the Employer and the Claimant agreed that the paragraph which addressed this injury should be excised.

On May 21, 2003, the parties filed a joint motion asking for the language referring to the December 20, 2000 injury to be stricken from the Application for Settlement and for the Application to be approved as to all other injuries for which Longshore jurisdiction attaches. As both parties have agreed and good cause has been shown, I hereby excise Section II, paragraph 6, of the Application for Approval of Settlement. Additionally, Section VIII, Acknowledgment of Lack of Jurisdiction/Intent Not to Claim, is hereby stricken as it relates to the December 20, 2000 injury. All other paragraphs of the Application remain unchanged.

Having considered the settlement stipulation and accompanying documents under the criteria of 20 C.F.R. § 702.243 and the circumstances surrounding this case, I am of the opinion that the amount of the settlement is adequate and the agreed settlement is in accordance with the Claimant's best interests. Accordingly, I make the following:

FINDINGS OF FACT

1. The agreed settlement is adequate and not procured by duress.
2. Settlement in the amounts and under the conditions set forth in the settlement application is approved and the parties are required to carry out the provisions of the settlement.
3. The parties have agreed on the pertinent issues and desire to settle the claim on the following basis: the Claimant is to be paid by the Employer (Self-Insured) the total sum of One hundred ten thousand and 00/100 DOLLARS (\$110,000.00) for settlement under the Longshore Act.
4. The parties agree that Michael A. Carver grants a release to Bath Iron Works (Self-Insured) of all claims arising out of the injuries of November 1, 1990, February 3, 1993, June 16, 1994, February 21, 1996, November 11, 1997, March 23, 1998, May 29, 1998, December 19, 2000,

March 8, 2001, March 20, 2001 and November 29, 2001 under the Longshore and Harbor Workers' Compensation Act.

5. The Claimant agrees to voluntarily resign from Bath Iron Works Corporation.
6. The parties agree that any amounts paid to the Claimant pursuant to settlement for the same injuries under the State of Maine Workers' Compensation Act shall constitute a credit pursuant to 33 U.S.C. §903(e) of the Longshore Act against the settlement owed pursuant to any Order approving this Stipulation and Settlement Agreement. This settlement is not final until approved by the Office of Workers' Compensation Programs and State approval has been obtained under the provisions of the Maine Workers' Compensation Act.
7. The parties agree that the Claimant's attorney's fees have been paid in full for work pursuant to the State of Maine Workers' Compensation Act and that no additional fees are requested in conjunction with this Application.
8. The liability of Self-Insured Employer, Bath Iron Works (Self-Insured) for all payments of compensation and medical benefits and any other potential benefits under the Longshore and Harbor Workers' Compensation Act, resulting from the Employee's accident and injuries of November 1, 1990, February 3, 1993, June 16, 1994, February 21, 1996, November 11, 1997, March 23, 1998, May 29, 1998, December 19, 2000, March 8, 2001, March 20, 2001 and November 29, 2001 will be discharged upon payment of the agreed upon sums.

ORDER

IT IS HEREBY ORDERED that the Employer, Bath Iron Works, Corp., shall pay all of the amounts set forth above in accordance with the settlement application and such payments shall discharge the liability of the Employer for compensation, medical benefits and attorney fees arising from the job-related illness; and,

IT IS FURTHER ORDERED that the hearing scheduled for June 17, 2003 at Portland, Maine, is cancelled.

A

DANIEL J. ROKETENETZ
Administrative Law Judge

